IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3102 OF 2006

Noor Alam Munna Ansari & anr. ..Petitioners.

Vs.

Kirit Kamdas Kapadia ..Respondent.

...

Ms. Sonali Humane for the Petitioners.
Mr. V.P. Sawant for the Respondent.

...

CORAM: DR. D.Y. CHANDRACHUD, J.

29th June, 2006.

P.C. :

1. The Petition is companion to Writ Petition 3101 of 2006 which has been dismissed by an order passed today. The finding that has been recorded in the impugned order which is on an application under Section 33 C (2) Industrial Disputes Act, 1947 is that there was no preexisting right on the the part of the Petitioner workmen. The evidence on the record shows that the workmen were employed by Noor Alam who had taken the power looms of the Respondent for running on a contract basis. There is no adjudication by any Court or Tribunal of the existing of any employer employee relationship between the Petitioners and the Respondent. In that view of the matter, the application under

Section 33 C (2) was correctly dismissed and the impugned order of the Labour Court does not fall for interference under Article 227. The Petition is dismissed.

2. The Court has been informed that it is common ground between the learned counsel that earlier, an ex parte order was passed against the Respondent. The Court has been informed that the order was set aside conditional on a deposit being made by the Respondent towards the claim of the Petitioners before the Labour Court. The Respondent has deposited an amount of Rs.7,08,890/- before the Labour Court on 19th November, 2003. In view of the disposal of the application under Section 33 C (2) of the Industrial Disputes Act and the order passed in these proceedings affirming the order of the Labour Court, the Respondent would be at liberty to withdraw the amount so deposited.